

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1806 - SB 1734

March 27, 2011

SUMMARY OF BILL: Prohibits a law enforcement agent or agency from engaging in biased-based policing defined as the practice of relying to any degree on race, ethnicity, racial or ethnic stereotypes, national origin, immigration or citizenship status, sexual orientation, gender identity, or religion in selecting an individual to subject to law enforcement activities such as non-custodial questioning, interviews, traffic stops, roadblocks or checkpoints, pedestrian stops, frisks or body searches, consensual searches on person or vehicle, and home searches. Specifies that biased-based policing does not include reliance by the agent on trustworthy individualized information relevant to the locality and time frame that links a person of such racial, ethnic, or sexual oriented backgrounds to a criminal incident or scheme. Prohibits a law enforcement agent or agency from detaining an individual based on any noncriminal factor unless pursuant to court order and from using monies, equipment, or personnel to apprehend a person whose only violation of law is being a noncitizen in violation of federal immigration laws.

Creates a civil cause of action for declaratory or injunctive relief against a law enforcement agent, the agency, or any the supervisory authority agent for any person injured by biased-based policing. Entitles the individual to recover damages upon a determination that law enforcement engaged in such conduct. Classifies proof that the investigatory activities of the agent or agency have a disparate impact on the designed groups as prima facie evidence of a violation. Authorizes the court to award a prevailing plaintiff reasonable attorney fees, including expert fees.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Currently, law enforcement officers conduct law enforcement activities as defined in the provisions of this bill within the parameters of state and federal constitutional and procedural law. Claims that an officer or agency engaged in conduct that allegedly violated a provision of law are raised routinely by defendants through motion practice in criminal courts.
- Categorizing police conduct as biased-based policing will not result in a significant change in current criminal procedure and related court proceedings.

- According to the Department of Safety, the provisions of this bill will have little impact on the Department since the Tennessee Highway Patrol already has policies and procedures in place that prohibit these types of actions.
- According to the Tennessee Bureau of Investigation, this bill has no impact on the Bureau.
- Because local law enforcement operates within the present legal parameters, this bill will have no significant impact on local law enforcement practices.
- Creating a specific civil cause of action could result in additional civil actions being filed in state courts. However, any increase is estimated to be not significant and can be accommodated within existing resources of the state courts.
- To the extent any civil actions are brought under this section and a plaintiff prevails, the resulting declaratory or injunctive relief, or damages or attorney fees awarded, are estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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